

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : **DATE FILED:** _____
v. : **CRIMINAL NO.** _____
GARY J. SPIRK : **VIOLATIONS:**
18 U.S.C. § 1341 (mail fraud - 3 counts)

I N F O R M A T I O N

COUNTS ONE THROUGH THREE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times relevant to this information:

1. Apacor Financial, Inc., (“AFI”), was a Minnesota company that issued and sold to the public nine-month promissory notes, representing that the notes were secured by credit card debt portfolios worth significantly more than the face value of the notes and would yield a high rate of return in a short period of time.

2. Defendant GARY J. SPIRK was a licensed insurance agent but was not licensed to sell securities, and sold nine-month promissory notes issued by AFI through his company Secure Investments, Inc. (“SI”), located in Mountville, Pennsylvania, and contracted with other insurance agents (hereinafter “sub-agents”) to sell AFI promissory notes in Pennsylvania.

3. After the purchase of an AFI promissory note, defendant GARY J. SPIRK, acting through SI, completed and sent to the purchasers via the U. S. mail an AFI promissory note and security agreement, and deposited the money into AFI’s account at the Fulton Bank,

which account was established solely for the purpose of processing the note payments.

4. On or about January 23, 2001, the Pennsylvania Securities Commission (“PSC”) issued a cease and desist order to AFI that ordered AFI to stop selling in Pennsylvania the unregistered nine-month promissory notes, which were considered securities and thus subject to Pennsylvania’s securities regulations.

5. AFI, which did not use the money from the sale of the promissory notes for the represented purposes, and did not secure the notes with debt portfolios as represented, subsequently defaulted on the promissory notes that were sold by defendant GARY J. SPIRK and the sub-agents after the issuance of the cease and desist order on January 25, 2001.

THE SCHEME

6. From on or about January 25, 2001, through on or about March 27, 2001, defendant

GARY J. SPIRK

devised and intended to devise a scheme to defraud investors, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

MANNER AND MEANS

It was part of the scheme that:

7. Defendant GARY J. SPIRK, through his company, SI, sold, and caused the sub-agents who sold AFI notes through SI to sell, in Pennsylvania nine-month promissory notes issued by AFI, without disclosing to the prospective purchasers and to the sub-agents that the PSC had issued a cease and desist order prohibiting AFI from selling the notes in Pennsylvania.

8. As a result of defendant GARY J. SPIRK’s failure to disclose the existence of the

cease and desist order to prospective customers and to the sub-agents, six individuals purchased a total of approximately \$114,000 worth of AFI nine-month promissory notes, and incurred substantial losses when AFI defaulted on the notes.

9. On or about the dates listed below, in the Eastern District of Pennsylvania and elsewhere, defendant

GARY J. SPIRK,

for the purpose of executing this scheme, and attempting to do so, knowingly caused to be delivered by the U.S. mail, according to the directions thereon, from SI's office in Mounteville, Pennsylvania, to the addresses listed below, AFI promissory notes, knowing that AFI was prohibited from selling such notes in Pennsylvania, and knowing that he had failed to disclose this information to the purchasers:

Count	Date	Recipient	Address
1	2/12/01	F.V. and P.V.	Second Street Washington Boro, PA
2	3/9/01	D.H.	Koser Road, Lititz, PA
3	3/16/01	J.S.	Waltonville Road Hummelstown, PA

All in violation of Title 18, United States Code, Section 1341.

PATRICK L MEEHAN
United States Attorney